

Senator Elizabeth Warren
Questions for the Record
Nomination hearing of Ms. Kathleen Laura Kraninger, of Ohio, to be Director, Bureau of
Consumer Financial Protection; and Ms. Kimberly A. Reed, of West Virginia, to be
President of the Export-Import Bank.
July 19, 2018

For Ms. Kraninger

1. Title X of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* establishes the CFPB to administer and interpret Dodd-Frank's prohibition on unfair, deceptive and abusive acts or practices. The Act instructs the Bureau to supervise non-banks that are large participants of a market for consumer financial products or services, which includes federal student loan servicers and debt collectors.¹ If confirmed, do you plan to have the CFPB continue to supervise federal student loan servicers and debt collectors?
2. The U.S. Department of Education does not have the statutory authority to enforce the Dodd-Frank Act's prohibition on unfair, deceptive and abusive acts or practices. Do you believe CFPB has the statutory authority to enforce the Dodd-Frank Act's prohibition on unfair, deceptive and abusive acts or practices if the violations are committed by federal student loan servicers, debt collectors, or other Department of Education contractors?
3. In 2017, the U.S. Department of Education revoked two memoranda of understanding between the Department and the CFPB. These information-sharing agreements covered the sharing of confidential information related to the Bureau's oversight of certain Education Department contractors. Do you agree with Secretary DeVos' decision to revoke information-sharing from the CFPB?
4. Dodd-Frank Act Section 1035(c) establishes the functions of the student loan ombudsman and states that the ombudsman shall resolve complaints "in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs". Dodd-Frank Act Section 1035(c) also requires the ombudsman to establish a memorandum of understanding with the Department of Education's student loan ombudsman "to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans."² Will you insist that the U.S. Department of Education maintain a memorandum of understanding between its own ombudsman and the student loan ombudsman at the Consumer Financial Protection Bureau, as required by 12 U.S. Code § 5535 "*to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans*" (emphasis added)?
5. Given the U.S. Department of Education's August 2017 decision to terminate existing memoranda of understanding between the CFPB and the Education Department, if confirmed, how do you plan to collaborate with the Education Department to resolve student complaints related to federal student loans?

¹ 12 U.S.C. § 5481(5), (15); 12 USC § 5514(a)(1)(B); 12 CFR 1090.106; 12 CFR 1090.105

² 12 U.S.C. § 5535

6. During your confirmation hearing, you stated, “It is an essential responsibility of the Bureau to engage in the rulemaking activities, setting clear rules” in response to a question regarding the CFPB’s role in empowering state attorneys general. On March 12, 2018, the Department of Education issued an interpretation of the Higher Education Act that preempts state regulation of federal student loan servicers.³ If confirmed, how do you plan to work with state attorneys general given the numerous issues of deception and predatory actions of federal student loan servicers within this context?
7. In May 2018, Acting Director Mulvaney announced his decision to eliminate the CFPB’s Office for Students and Young Consumers and consolidate its functions into the Office of Financial Education. The Office for Students and Young Consumers is one of the only government entities focused on serving the financial needs of this population and has a history of success, securing over \$750 million in relief for defrauded student loan borrowers and taxpayers. From your perspective, what is the role of CFPB in serving this population? If confirmed, what are your plans for the Office for Students and Young Consumers?
8. Senior leadership at CFPB has told the public that all decisions related to pending enforcement actions are made by or “in consultation with” career staff in the CFPB’s enforcement division. However, there is a growing concern about the direction of the CFPB’s current work related to student loans. Can you commit to vigorously pursuing and continuing the CFPB’s existing litigation with the student loan industry?
9. The CFPB is governed by several other applicable statutes that make it clear that the agency’s role is to protect consumers who may be abused by financial products or services. Additionally, the CFPB’s proposed FY 2018-2022 five-year strategic plan states that the CFPB will “*address needs for inclusion and financial security of servicemembers, older Americans, traditionally underserved consumers and communities, and students.*” Do you believe the CFPB has responsibility to protect and inform students about college debt and bank account agreements that pose a risk to them as consumers?
10. Do you acknowledge that the Securities and Exchange Commission has some jurisdiction and oversight authority over companies and financial institutions that participate in the federal student loan program through federal contracts?
11. Do you acknowledge that the Federal Deposit Insurance Corporation has some jurisdiction and oversight authority over companies and financial institutions that participate in the federal student loan program through federal contracts?
12. Do you acknowledge that the U.S. Department of Justice has some jurisdiction and oversight authority over companies and financial institutions that participate in the federal student loan program through federal contracts?
13. Do you acknowledge that the Consumer Financial Protection Bureau has some jurisdiction and oversight authority over companies and financial institutions that participate in the federal student loan program through federal contracts?
14. Do you believe that, if confirmed, it would be appropriate for you to express a preference to career enforcement attorneys for a particular outcome in any of the CFPB’s ongoing litigation?

³ <https://www.federalregister.gov/documents/2018/03/12/2018-04924/federal-preemption-and-state-regulation-of-the-department-of-education-federal-student-loan>

15. In late May, Ms. Kristen Donoghue, Assistant Director for Enforcement at the CFPB, sent a letter to the U.S. Department of Education requesting access to student loan records, including data and documents, held by Navient Solutions pursuant to the Privacy Act of 1974 under 5 U.S.C. § 552a(b)(7) and 5 U.S.C. § 552a(b)(3) and that “the Department direct Navient Solutions to provide the Bureau with all access that the Bureau deems necessary for the Bureau to litigate its claims against Navient Solutions.” Will you commit to continuing to support the CFPB’s request for these student loan records?